Llewellyn, 31 L. J. Ch., 658; *Coles v. Pilkington,* L. R. 19 Eq., 174. Two theories are advanced for the reason of this rule: On the one hand, it is said that great injustice would be done the donee by refusing to grant specific performance; *Wainwright v. Talcott,* 60 Conn., 43; and on the other hand, that the possession and improvements are the equivalent of an actual consideration. *Seavey v. Drake,* 62 N. H., 393; *Guynn v. McCauley,* 32 Ark., 97. But the court will not decree specific performance where the donee merely takes possession, without making improvements. *Anderson v. Scott,* 94 Mo., 637; *West v. Webster,* 39 Tex. Civ. App., 272. To warrant interference by a court of equity, the improvements made by the donee must be valuable and permanent; *Price v. Lloyd,* 31 Utah, 86; his possession must be actual and not constructive; *Griggsby v. Osborne,* 82 Va., 371; and the possession must be taken, and the improvements made, in reliance on the gift. *Bigelow v. Bigelow,* 93 Me., 439. It is well settled that the possession and improvements are sufficient part performance to take the transaction out of the Statute of Frauds. *Anderson v. Shockley,* 82 Mo., 250; *Truman v. Truman,* 79 Iowa, 506. If specific performance is denied on account of doubt as to the proof, the court will decree compensation to the donee for the improvements made. *Worth v. Worth,* 84 Ill., 442.

STREET RAILROADS—INJURIES—CONTRIBUTORY NEGLIGENCE.—ASHLEY V. JOLINE, 126 N. Y. SUPP., 3.—*Held,* that in an action for injuries received while crossing a street car track that plaintiff did not show herself free from contributory negligence, there being nothing to prevent her from seeing car, had she looked. Gavegan, J., *dissenting.*

This decision is not in accord with the general rule of law on the subject, which is that failure to look before attempting to cross a street car track, does not *per se* constitute negligence, but is a question for the jury in every case. *Pyne v. Broadway Electric Ry.,* 19 N. Y. Supp., 217; *Benjamin v. Holyoke Ry. Co.,* 16 Mass., 3. There are many cases holding that it is negligence as a matter of law not to look before attempting to cross a steam railroad, but that such is not the case in regard to crossing a street car track. *Smith v. Minneapolis City Ry.,* 90 Minn., 254. In some jurisdictions, however, it has been held that the same rule applies alike to both steam railroads and street railways. *Berger v. Philadelphia R. T. Co.,* 141 Fed., 1020. With a state of facts similar to the present case, late decisions have said, without laying down any general rule, that there was no contributory negligence as a matter of law and the facts should go to the jury. *Daum v. N. J. St. Ry. Co.,* 70 N. J. Law, 338; *Priesmyer v. St. Louis Transit Co.,* 102 Mo. App., 518.